

**Exhibit 6: Excerpts of Deposition of Don Hammonds**

Page 1

1 IN THE UNITED STATES DISTRICT COURT  
 2 FOR THE MIDDLE DISTRICT OF ALABAMA  
 3 NORTHERN DIVISION  
 4 CASE NUMBER: 2:05-CV-194-T  
 5 HAZEL M. ROBY, as Administratrix  
 6 of the Estate of Ronald Tyrone  
 7 Roby, Deceased,  
 8 Plaintiff,  
 9 vs.  
 10 BENTON EXPRESS, INC., et al.,  
 11 Defendants.  
 12  
 13 S T I P U L A T I O N  
 14 IT IS STIPULATED AND AGREED by and  
 15 between the parties through their respective  
 16 counsel, that the videotaped deposition of  
 17 Boyd Don Hammond may be taken before Angela  
 18 Smith, RPR, CRR, at the offices of Carr,  
 19 Allison, at 100 Vestavia Parkway, Ste: 200,  
 20 Birmingham, Alabama 35216, on the 19th day  
 21 of September, 2005.  
 22 DEPOSITION OF BOYD DON HAMMOND  
 23 42643

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1 IT IS FURTHER STIPULATED AND  
 2 AGREED that the signature to and the reading  
 3 of the deposition by the witness is waived,  
 4 the deposition to have the same force and  
 5 effect as if full compliance had been had  
 6 with all laws and rules of Court relating to  
 7 the taking of depositions.  
 8 IT IS FURTHER STIPULATED AND  
 9 AGREED that it shall not be necessary for  
 10 any objections to be made by counsel to any  
 11 questions except as to form or leading  
 12 questions, and that counsel for the parties  
 13 may make objections and assign grounds at  
 14 the time of the trial, or at the time said  
 15 deposition is offered in evidence, or prior  
 16 thereto.  
 17 IT IS FURTHER STIPULATED AND  
 18 AGREED that the notice of filing of the  
 19 deposition by the Commissioner is waived.

20  
 21 \* \* \* \* \*  
 22  
 23

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1 \* \* \* \* \*  
 2 I N D E X  
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 14 to Frontier Adjusters ... 250  
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 16 \* \* \* \* \*

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 6 of the Estate of Ronald Tyrone  
 7 Roby, Deceased,  
 8 Plaintiff,  
 9 vs.  
 10 BENTON EXPRESS, INC., et al.,  
 11 Defendants.  
 12 BEFORE:  
 13 ANGELA SMITH, Commissioner.  
 14 APPEARANCES:  
 15 LABARRON N. BOONE, ESQUIRE, of  
 16 BEASLEY, ALLEN, CROW, METHVIN, PORTIS &  
 17 MILES, 218 Commerce Street, Montgomery,  
 18 Alabama 36104, appearing on behalf of the  
 19 Plaintiff.  
 20 GREGORY A. BROCKWELL, ESQUIRE, of  
 21 CARR, ALLISON, 100 Vestavia Parkway, Ste:  
 22 200, Birmingham, Alabama 35216, appearing on  
 23 behalf of the Defendant.

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1 that exist around the country.

2 MR. BOONE: I understand. And  
3 our normal -- We've agreed to normal  
4 stipulations. So object just to form. He  
5 just told me he went to a Worker's Comp  
6 Seminar and I'm going to ask him what he  
7 learned.

8 Q. Tell me what you learned about  
9 what injuries are covered under worker's  
10 comp.

11 A. All injuries, as long as  
12 you're operating or working within the scope  
13 of your employment, are covered by worker's  
14 compensation.

15 Q. Did they give you any  
16 information considered -- defined -- telling  
17 you was considered in the scope of your  
18 employment?

19 A. They gave me all of the  
20 Florida statutes.

21 Q. And can you tell me what is  
22 considered in the scope of employment?

23 A. No.

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1 Q. When they gave them to you,  
2 did you review them?

3 A. There's many, many statutes  
4 there. I did glance at them, yes.

5 Q. And from glancing at it, did  
6 you have any idea what's considered in the  
7 line and scope of employment?

8 A. I don't really follow your  
9 question.

10 Q. Yeah. You said worker's comp  
11 -- Benton Express paid worker's comp on any  
12 injury that occurred in the line and scope  
13 of employment. Do you recall that?

14 A. Yes.

15 Q. And I'm asking you what's  
16 considered in the line and scope of  
17 employment, from your experience at the  
18 Worker's Comp Seminars?

19 A. That is determined by the --  
20 by Commercial Risk, which is our adjusters,  
21 as to whether or not the employee was within  
22 the scope of his employment.

23 Q. Okay. So, you have no role in

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1 determining that?

2 A. No.

3 Q. Do you play any role in  
4 handling worker's comp cases?

5 A. Yes.

6 Q. What role do you play?

7 A. I investigate the injury to  
8 see how it could be prevented from happening  
9 to anyone else. And we do follow-up, as far  
10 as modified duty, to get the injured  
11 employee back to work.

12 Q. In this case, we're involved  
13 in a case in which a Benton Express  
14 employee, Mr. Craig Stephens, am I right  
15 about his name?

16 A. Yes.

17 Q. Was involved in a wreck, who  
18 was killed.

19 A. Yes.

20 Q. And in that wreck, Mr. Ronald  
21 Tyrone Roby also was killed. Are you  
22 familiar with that?

23 A. Yes.

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1 Q. And, now, have you played any  
2 role in looking into that case?

3 A. I have looked into it and  
4 reviewed the files on the case, yes, I have.

5 Q. And I know you told me one of  
6 you all's job was to try to be able to  
7 prevent injuries once they occur. Do you  
8 remember saying that?

9 A. Yes.

10 Q. Have you investigated and  
11 tried to figure out how you could have  
12 prevented the injuries that occurred in this  
13 wreck?

14 A. There was no indication that  
15 this particular accident was going to  
16 happen. We had no reason to -- to believe  
17 that we were going to have an accident.

18 Q. You mean up until the time you  
19 all got information about the wreck, you all  
20 had no idea that a wreck was about to occur?

21 A. No. I did not know one was  
22 about to occur.

23 Q. And you all had no -- And what

10 (Pages 37 to 40)

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1 I guess that you're telling me, you all had  
2 no reason to even suspect something was  
3 going on that could lead to a wreck?

4 A. That's correct.

5 Q. All you knew was Mr. Craig  
6 Stephens was in a Benton Express truck, he  
7 was hauling Benton Express products on that  
8 Monday; is that right?

9 MR. BROCKWELL: Object to the  
10 form.

11 Q. Well, let me rephrase it. Did  
12 you have any reason to suspect that  
13 Mr. Craig Stephens, in the Benton Express  
14 truck, was going to have a wreck on that  
15 Monday?

16 A. Going to have a wreck?

17 Q. Yes.

18 A. No.

19 Q. Best you understood, he was  
20 doing his work and was going to make it back  
21 to Pensacola on Monday, safely?

22 MR. BROCKWELL: Object to the  
23 form.

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1 A. No. Monday should not have  
2 been in the question.

3 Q. Did you have any reason, then,  
4 since Monday shouldn't have been in the  
5 question, to expect that a wreck was going  
6 to happen?

7 A. Not to suspect a wreck was  
8 going to happen.

9 Q. So, on that Monday, did you  
10 have any reason to suspect a wreck was going  
11 to happen?

12 A. No. Not a wreck, no.

13 Q. Okay. And you expected  
14 Mr. Craig Stephens to arrive at -- in  
15 Pensacola with the load, that Monday?

16 A. No.

17 Q. Okay. You knew -- Did you  
18 know that Craig Stephens had not arrived on  
19 Saturday?

20 A. Yes.

21 Q. Did you know he had not  
22 arrived on Sunday?

23 A. Yes.

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1 Q. So, the only other -- The next  
2 day he could have arrived, you agree with  
3 me, is Monday?

4 A. Yes.

5 Q. And any reason you had as of  
6 Monday -- You knew he hadn't arrived on  
7 Saturday, you knew he hadn't arrived on  
8 Sunday; am I right?

9 A. Correct.

10 Q. The next day he could have got  
11 there, since Saturday and Sunday had passed,  
12 is Monday; is that right?

13 A. Yes.

14 Q. On that Monday, did you have  
15 any reason to suspect that there was going  
16 to be a wreck by Mr. Craig Stephens in the  
17 Benton Express truck carrying this load?

18 A. We could not find  
19 Mr. Stephens. He could not be located. We  
20 had no reason to think that there was going  
21 to be a wreck that particular day, at that  
22 particular time.

23 Q. You all -- Did you all expect

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1 that he would ultimately show up safely with  
2 the Benton Express truck and his load?

3 A. We did not know.

4 Q. Well, we talked earlier about  
5 loads being hijacked. Do you recall that?

6 A. Yes.

7 Q. Had y'all figured out whether  
8 the load had been hijacked?

9 A. We had made every effort to  
10 find out unsuccessfully.

11 Q. So, as of Saturday, nor  
12 Sunday, you all had no idea whether or not  
13 the load had been hijacked?

14 A. No.

15 Q. You all had no idea about  
16 anything about the load?

17 A. We had our suspicions because  
18 that's the reason that a BOLO report was put  
19 out on Saturday, and a Stolen Vehicle Report  
20 was reported to the Atlanta Police  
21 Department on a Sunday.

22 MR. BOONE: I'm going to  
23 object to the form as nonresponsive.

11 (Pages 41 to 44)

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1 didn't leave a message for Craig Stephens?  
 2 A. They attempted to call him. I  
 3 say they, I know that Glen Clark attempted  
 4 to call him and he did not get an answer.  
 5 Q. And my question is, you told  
 6 me your phone has -- Well, if I called you  
 7 and you didn't pick up, I can leave you a  
 8 message.  
 9 A. Right.  
 10 Q. Neither one of them told you  
 11 they left a message for Craig, did they?  
 12 A. No.  
 13 Q. And I'm asking you, do you  
 14 know why they didn't leave a message for  
 15 him?  
 16 A. I don't even know if he has a  
 17 voice mailbox.  
 18 Q. Okay. Do you know if anybody  
 19 -- Is it your understanding is the reason  
 20 why Glen Clark was calling him was to try to  
 21 locate him and find out where he was?  
 22 A. Because he was overdue.  
 23 Q. Right. And he was trying to

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1 find out where he was?  
 2 A. Yes.  
 3 Q. And anything else you know of  
 4 that he was trying to do, other than locate  
 5 him and find out where he was, and what had  
 6 been the delay?  
 7 A. No.  
 8 Q. Truck drivers have delays  
 9 sometimes; is that correct?  
 10 A. Construction delays, accident  
 11 delays.  
 12 Q. Illness delays?  
 13 A. The answer is yes.  
 14 Q. Illness delays?  
 15 A. Illness delays, you need to  
 16 call in and we get you help.  
 17 Q. And I didn't say that -- I  
 18 wasn't talking about procedures. We'll get  
 19 to procedures. But I'm saying illness  
 20 delays happen?  
 21 A. Yes.  
 22 Q. And if somebody is obviously  
 23 hijacked, they're going to be delayed?

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1 A. True.  
 2 Q. And you've said that's  
 3 happened before.  
 4 A. Not an individual -- an  
 5 individual being hijacked, just cargo.  
 6 Q. That's right. And then when  
 7 cargo is delayed, he can't get it there on  
 8 time?  
 9 A. Right.  
 10 Q. If it's hijacked?  
 11 A. Right.  
 12 Q. And, actually, if it's  
 13 hijacked, and somebody get away with the  
 14 load, they don't get there at all?  
 15 A. That's true.  
 16 Q. So, loads are delayed, and  
 17 that's not unusual in the trucking industry?  
 18 A. It is unusual when you're on a  
 19 route. When you're on what is called a turn  
 20 run, a delay is very unusual.  
 21 Q. So, is it -- Well, would you  
 22 agree with me that on a turn route, delays  
 23 do sometimes happen?

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1 A. Minor delays.  
 2 Q. Such as maintenance?  
 3 A. That's a minor delay.  
 4 Q. A breakdown, how long -- Have  
 5 you never seen a breakdown that's serious  
 6 that takes more than a few minutes to fix?  
 7 A. We have a breakdown network,  
 8 to where we get a response from the vendor  
 9 to the driver to fix his vehicle.  
 10 If the -- If it cannot be  
 11 fixed, it has to be towed, then the closest  
 12 terminal, a truck is wreckered to him and he  
 13 proceeds on his route. So you do have minor  
 14 delays, but you don't have major delays.  
 15 Q. That would take -- From what  
 16 you just described to me could be -- sounds  
 17 like to me that could take several hours to  
 18 do all of that, wouldn't it?  
 19 A. It could take a few hours,  
 20 yes.  
 21 Q. For example, where are your  
 22 terminals where you would have more trucks  
 23 at, where you could go switch out a truck if

29 (Pages 113 to 116)

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1 A. No discussion of the delay was  
 2 made. It was simply a fact that he was  
 3 informed he needed to call Glen Clark  
 4 because of being drastically overdue.  
 5 And the reason for his call  
 6 was to make sure that Garlin took his  
 7 Tallahassee run because he wasn't going to  
 8 be back in time to do it.  
 9 Q. And -- Well, that's -- You  
 10 know, you do seem to be agreeing with me,  
 11 that's conceivable -- If I've been delayed,  
 12 it is an appropriate thing for an employee  
 13 to try to notify somebody that I'm not going  
 14 to be able to pick up my next run?  
 15 MR. BROCKWELL: Object to the  
 16 form.  
 17 Q. That makes sense, right?  
 18 A. There's a lot of difference in  
 19 two days' delay and a couple hours' delay.  
 20 Q. No. But I'm saying, if how  
 21 many days are delayed for whatever the  
 22 reason, if I was hijacked or a robber got me  
 23 or I fell deathly ill, but regardless, if my

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1 run is going to be -- if I'm going to be  
 2 delayed and unable to deliver a load, the  
 3 appropriate thing for me to do would be to  
 4 contact somebody and let them know I'm going  
 5 to be delayed and can't deliver my load;  
 6 right?  
 7 MR. BROCKWELL: Object to the  
 8 form.  
 9 A. Repeat your question.  
 10 Q. Yes. Let's assume I'm  
 11 delayed. Don't talk about this case. Just  
 12 ask about a simple delay. Let me get a  
 13 first answer then we can move to the more  
 14 specific example.  
 15 But if an employee is delayed  
 16 and won't be able to drive and deliver his  
 17 next load, is the appropriate thing for the  
 18 employee to do is to call and notify someone  
 19 of that delay that would prevent him from  
 20 delivering his next load?  
 21 A. Unnecessary, but yes.  
 22 Q. Unnecessary, but yes?  
 23 A. Uh-huh.

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1 Q. You all would want employees  
 2 to notify you of the information about their  
 3 whereabouts and the fact that they might not  
 4 be able to carry their next load, wouldn't  
 5 you?  
 6 A. I don't know if you understand  
 7 what a turn run is.  
 8 Q. No, no. Don't explain that to  
 9 me yet, because I think I do.  
 10 A. You got it?  
 11 Q. I'm just asking you, if I'm  
 12 delayed, would the appropriate thing be --  
 13 If I'm delayed and not going to be able to  
 14 carry my next load, would the appropriate  
 15 thing to do is call somebody and say: Boss  
 16 man, I'm delayed, I'm not going to be able  
 17 to carry my next load?  
 18 A. Yes.  
 19 Q. And Craig Stephens called and  
 20 -- What's his name, Garlin?  
 21 A. Garlin.  
 22 Q. -- Garlin answered it, however  
 23 he called, we don't know, but he answered

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1 it, and he told Garlin he couldn't make his  
 2 next load and could he carry it for him?  
 3 A. Right. But that wasn't all  
 4 the conversation.  
 5 Q. Right. You told us the rest  
 6 of it, or was there anything you left out  
 7 earlier?  
 8 A. That he was instructed to call  
 9 his manager.  
 10 Q. Okay. And other than the  
 11 stuff you told me earlier, was there  
 12 anything you didn't tell me that I need  
 13 to --  
 14 A. No.  
 15 Q. Would you agree with me that  
 16 nobody at Benton Express mandated Craig  
 17 Stephens to follow a particular route,  
 18 required him to follow a particular route?  
 19 A. The terminal manager,  
 20 depending on the dedicated route, it's  
 21 discussed to run the route in the shortest  
 22 possible way.  
 23 Q. Let's be specific this time,

45 (Pages 177 to 180)



## FOSHEE &amp; TURNER COURT REPORTERS

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1 A. Does it say 0100?  
 2 Q. That's what I thought it said.  
 3 What time -- Do you have any idea what time  
 4 that's supposed to mean? Is it supposed to  
 5 be one a.m., you believe?  
 6 A. I believe it to be one o'clock  
 7 in the afternoon.  
 8 Q. In the evening?  
 9 A. Would be my guess.  
 10 Q. And it looks like to me that's  
 11 the document, once he got to Atlanta going  
 12 from Pensacola. Why don't you take it and  
 13 see if you can verify that for me.  
 14 A. That would be the Atlanta --  
 15 leaving Atlanta, going back to Pensacola.  
 16 Q. Right. That's right. He went  
 17 from Pensacola to Atlanta. And that would  
 18 be the document dated or time once he got to  
 19 Atlanta?  
 20 A. Right. That where he left and  
 21 went back -- headed back toward Pensacola,  
 22 supposed to.  
 23 Q. And what time do you think

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1 that is?  
 2 A. It looks like 0100.  
 3 Q. Do you have any idea what time  
 4 he's trying to reflect, one a.m. or one  
 5 p.m.?  
 6 A. No, I do not. The supervisor  
 7 that approved the loading, Mr. Bill Jones,  
 8 could get that answer for you.  
 9 Q. Is it your understanding, from  
 10 talking to Bill Jones, that he was loaded --  
 11 he got there almost midnight?  
 12 A. He left the terminal,  
 13 according to the guard, Eastern Standard  
 14 Time, about 12:40 a.m., I think it was.  
 15 Q. Okay. So -- That's 12:40 a.m.  
 16 in the night, meaning nighttime?  
 17 A. Meaning -- Right. Nighttime.  
 18 Q. So, would you believe that one  
 19 -- At least even if that's an error, one  
 20 probably referring to around one a.m. in the  
 21 morning? Or do you think that's one p.m.,  
 22 possibly?  
 23 A. I don't believe it means

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1 either one.  
 2 Q. What you think it means?  
 3 A. I think it's a -- whoever  
 4 entered this entered it incorrectly.  
 5 Q. Entered incorrectly?  
 6 A. Yes.  
 7 Q. Okay.  
 8 A. It's dated 4/8/05. They're  
 9 loaded out that night. It can't be one  
 10 o'clock in the morning, because he left at  
 11 12:40. This could be an error by the  
 12 individual that filled out the form.  
 13 Q. And Bill Jones' name is on  
 14 there?  
 15 A. No, Bill Jones does not load  
 16 the units.  
 17 Q. Oh, okay. Did anybody sign  
 18 that document you told me a minute ago?  
 19 A. Supervisor closing is here  
 20 (indicating). And supervisor approved the  
 21 loading is here (indicating).  
 22 Q. And who are they? What's  
 23 written there? Can you tell?

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1 A. I can't tell.  
 2 Q. Okay. You can't read it?  
 3 A. No.  
 4 Q. You can't read it. And in  
 5 your investigation, you never found out -- I  
 6 think, best you recall, he had no contact  
 7 with anybody. But it appears that there was  
 8 a closing supervisor and a loading  
 9 supervisor that maybe he had contact with  
 10 who signed this.  
 11 A. That means they closed the  
 12 trailer.  
 13 Q. You mean shut the door on it?  
 14 A. Shut the door on the trailer,  
 15 put his dispatcher's manifest in the spot  
 16 that they would put it.  
 17 Q. Okay.  
 18 A. And his responsibility would  
 19 be to come in the gate, drop his trailer, go  
 20 get his manifest to find out what kind of  
 21 trailer or which number he was supposed to  
 22 take back with him, go locate that trailer,  
 23 hook up, pretrip, and go.

57 (Pages 225 to 228)